

FAMILY SUSTAINING WAGE AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Fred J. Fife

LONG TITLE

General Description:

This bill amends the Labor Code to address wages.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits a city of the first class or second class or a county of the first or second class to address a family sustaining wage for certain projects;
- ▶ clarifies language regarding federal funded projects; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

34-40-106, as enacted by Chapter 248, Laws of Utah 2001

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34-40-106** is amended to read:

34-40-106. Limitations on minimum wage imposed by cities, towns, or counties.

(1) As used in this section:



(a) "Family sustaining wage" means compensation:

(i) due an employee for labor or services, whether the amount is fixed or ascertained on a time, task, piece, commission basis, or other method of calculating the amount; and

(ii) that is an amount determined by the legislative body of the city or county described in Subsection (4) as sufficient to meet the needs of a family within the city or county.

(b) "Project" means one or more agreements between a city or county and third parties:

(i) that the legislative body of the city or county determines relates to the same capital improvement; and

(ii) the total cost of which to the city or county equals or exceeds \$1,000,000.

~~[(1)-A]~~ (2) Except as provided in Subsection (4), a city, town, or county may not establish, mandate, or require a minimum wage that exceeds the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

~~[(2)]~~ (3) (a) ~~[A]~~ Except as provided in Subsection (4), a city, town, or county may not require that a person who contracts with the city, town, or county pay that person's employees a wage that exceeds the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

~~[(b) Subsection (2)(a) does not apply when federal law requires the payment of a prevailing or minimum wage to persons working on projects funded in whole or in part by federal funds.]~~

~~[(c)]~~ (b) Subsection ~~[(2)]~~ (3)(a) applies to contracts executed on or after April 30, 2001.

(4) (a) A city of the first or second class or a county of the first or second class may do the following for any contract entered into by that city or county as part of a project:

(i) establish, mandate, or require a family sustaining wage be paid under the contract;

(ii) require a person who contracts with the city or county pay that person's employees a family sustaining wage; or

(iii) when making a contract decision:

(A) take into consideration whether a person is willing to pay that person's employees a family sustaining wage; or

(B) give a preference to a person who is willing to pay that person's employees a family sustaining wage.

(b) This section does not apply when federal law requires the payment of a specified

wage to persons working on a project funded in whole or in part by federal funds.

Section 2. **Coordinating S.B. 69 and S.B. 139.**

If this S.B. 69 and S.B. 139, Minimum Wage Amendments, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication, modify Section 34-40-106 to read as follows:

"34-40-106. Limitations on minimum wage imposed by cities, towns, or counties.

(1) As used in this section:

(a) "Family sustaining wage" means compensation:

(i) due an employee for labor or services, whether the amount is fixed or ascertained on a time, task, piece, commission basis, or other method of calculating the amount; and

(ii) that is an amount determined by the legislative body of the city or county described in Subsection (5) as sufficient to meet the needs of a family within the city or county.

(b) "Project" means one or more agreements between a city or county and third parties:

(i) that the legislative body of the city or county determines relates to the same capital improvement; and

(ii) the total cost of which to the city or county equals or exceeds \$1,000,000.

~~[(1) A]~~ (2) Except as provided in Subsection (5), a city, town, or county may not establish, mandate, or require a minimum wage that exceeds the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

~~[(2)]~~ (3) (a) [A] Except as provided in Subsection (5), a city, town, or county may not require that a person who contracts with the city, town, or county pay that person's employees a wage that exceeds the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

~~[(b) Subsection (2)(a) does not apply when federal law requires the payment of a prevailing or minimum wage to persons working on projects funded in whole or in part by federal funds.]~~

~~[(c)]~~ (b) Subsection [(2)] (3)(a) applies to contracts executed on or after April 30, 2001.

(4) (a) Except as provided in Subsection (5), if a city, town, or county contracts with a person, in awarding or otherwise executing that contract, the city, town, or county may not:

(i) consider whether or not the person who contracts with the city, town, or county pays that person's employees a wage that exceeds the minimum wage as provided in 29 U.S.C. 201

et seq., Fair Labor Standards Act of 1938; or

(ii) give any preferential treatment to a person that pays that person's employees a wage that exceeds the minimum wage as provided in 29 U.S.C. 201 et seq., Fair Labor Standards Act of 1938.

(b) This Subsection (4) applies to contracts executed on or after May 2, 2005.

(5) (a) A city of the first or second class or a county of the first or second class may do the following for any contract entered into by that city or county as part of a project:

(i) establish, mandate, or require a family sustaining wage be paid under the contract;

(ii) require a person who contracts with the city or county pay that person's employees a family sustaining wage; or

(iii) when making a contract decision:

(A) take into consideration whether a person is willing to pay that person's employees a family sustaining wage; or

(B) give a preference to a person who is willing to pay that person's employees a family sustaining wage.

(b) This section does not apply when federal law requires the payment of a specified wage to persons working on a project funded in whole or in part by federal funds."

Legislative Review Note

as of 2-9-05 4:30 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0069

Family Sustaining Wage Amendments

15-Feb-05

4:14 PM

State Impact

Costs of implementation can be handled within existing budgets.

Individual and Business Impact

The bill may increase costs on some local government projects.

Office of the Legislative Fiscal Analyst